



State of North Dakota
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Off Label Use of Medications

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Chairs and members of the Joint Technical Corrections Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy. I appreciate the opportunity to be here to speak to you today about the proposal before us today.

The Board of Pharmacy has very deep concerns with the language in this bill that restricts the professional discretion of a pharmacist. When making professional care decision for their patients the public should expect the professionals with the education to exercise their judgement, with the understanding the public has a right to get healthcare from an appropriately licensed individual / business.

Certainly, the root of this issue refers to the current COVID Pandemic and the desire to use drugs that do not currently carry FDA approved indications for the prevention or treatment of COVID. To be completely transparent, the issue here is Ivermectin. I know there are numerous professional opinions on the use of Ivermectin to prevent or treat COVID, including in the pharmacy profession. There is research out there that indicates there may be beneficial aspects of it and there are legitimate concerns on the effectiveness at all.

Ultimately, it does not seem appropriate for the government to decide what is right or wrong in those cases. We have found at the Board of Pharmacy to allow the professionals with the education and expertise providing the care to determine what is appropriate. If the patient is not happy with the care they are, or are not receiving, they are free to go to a different licensed pharmacy professional who may have a different approach to their care. We are certainly aware of some pharmacies that are not filling Ivermectin prescriptions. However, we know there are many pharmacies that are filling Ivermectin prescriptions. Often the issue that the pharmacists currently face when they are presented with an Ivermectin prescription, is that the practitioner, in most of the cases, are *NOT* licensed to provide care to North Dakota Patients. Right on the surface that indicates that the prescription is not a valid prescription.

It is not based on a valid patient-practitioner relationship. That is the basis of many of the prescriptions which are being denied across the state. Now, there are certainly some practitioners in the state who are licensed with the state that are providing prescriptions.

If it is a valid prescription written by a valid practitioner, they are often being filled. Also, keep in mind ivermectin is not a commonly stocked medication in most pharmacies and we have certainly heard from some pharmacists that supply is an issue given the current demand situation. I can tell you from my personal experience, when I was practicing in a retail pharmacy, that it is not an item that we stocked with any regularity. So, the supply is certainly a valid concern.

The real danger of this bill is in forcing a pharmacist to dispense a prescription, regardless of their professional opinion and expertise. The precedent this sets is not a good one. There are many prescriptions that a pharmacist may have a moral objection against, such as oral contraception, Plan B and in some cases, even COVID Vaccinations. Also, a valid concern is controlled substance dispensing. Forcing a professional to over-ride their professional opinion and moral objections to dispensing on demand does not seem right and not the right thing for our government to mandate.

Furthermore, creating a mandate that requires them to dispense this medication does not contain any liability protections for the pharmacist. Therefore, they will be liable for dispensing a medication if the patient is harmed and the patient or their representative has every right to hold the Pharmacy legally responsible for that harm.

The Board of Pharmacy has received very few complaints or phone calls relative to this issue from patients. To be honest it is *NOT* an issue. Patients with valid prescriptions are finding their way to a location that will dispense it if they desire.

Resorting to the heavy hand of government mandates, rather than allowing professionals to use their education and expertise, is not in the best interest of our citizens and may leave the professionals risking their patient's health against their better judgement.

I sincerely hope that you understand the gravity of the issue and long-term consequences of the passage of a bill like this and hope for a do not pass recommendation be given this bill.